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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DAVID E. PENNA  
and RICHARD M. MILLER-SMITH

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Appeal 2009-003722  
Application 10/528,950  
Technology Center 2600

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Before JOHN C. MARTIN, THOMAS S. HAHN, and  
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HAHN, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellants invoke our review under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-14. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

## STATEMENT OF THE CASE

Appellants claim a computer device and operating method for inputting data with time and location information. Representations of data items with time information are displayed on a screen at time corresponding locations on a representation of a time interval.<sup>2</sup> Claim 1, with disputed limitations emphasized, is illustrative:

1. A portable computer device comprising:

a data input (26, 38);

a control input (16);

data acceptance logic (24, 40) arranged to accept data on the data input (26, 38), to determine whether time and location information is present, to add time and/or location information to data items not having time and/or location information respectively and to store data items in memory (22) together with respective time and location information; and a display arrangement (6, 24, 40) arranged to cause the display of data items, including data items stored in the memory (22), in one of a plurality of modes, the modes including a time mode and a space mode, the display arrangement being arranged:

to switch (54) between the time and space modes in response to a corresponding input on the control input (16);

*to display in the time mode a representation (90) of a time interval together with representations (92) of those data items that have respective time information in the time interval, the representations of data items being displayed at locations corresponding to the respective time information; and*

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<sup>2</sup> See generally Spec. 6:1, 12-15; 6:19-7:7; 7:10-14, 24-25; 8:28-31; 9:20-26; 9:31-10:5; Figs. 1, 2, 5, and 6.

to display in the space mode a representation of a display area (94) together with representations (92) of those data items that have respective location, information within the display area, the representations of data items being displayed at locations corresponding to the respective location information.

The Examiner relies on the following prior art to show unpatentability:<sup>3</sup>

Ota	US 6,437,797 B1	Aug.20, 2002
Ogaki	US 2002/0154150 A1	Oct. 24, 2002
Rusch	US 6,801,777 B2	Oct. 5, 2004

The Examiner rejected:

1. Claims 1 and 10, under 35 U.S.C. § 102(e), as being anticipated by Ota (Ans. 3-6);
2. Claims 2, 3, 5-9, and 11-14, under 35 U.S.C. § 103(a), as being obvious over Ota and Ogaki (Ans. 6-9); and
3. Claim 4, under 35 U.S.C. § 103(a), as being obvious over Ota, Ogaki, and Rusch (Ans. 9-10).

#### ISSUE<sup>4</sup>

The pivotal issue, based on the Examiner's findings and conclusions and the Appellants' contentions, is whether the Examiner, under § 102(e), erred in finding Ota teaches displaying a representation of a time interval together with data items and their associated time information at locations

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<sup>3</sup> Effective filing dates for these documents precede Appellants' earliest effective filing date and are not at issue.

<sup>4</sup> Arguments that Appellants could have made but did not make are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

that correspond to the displayed data item time information as is recited in claim 1.

## ANALYSIS

### *Claims 1 and 10*

Appellants rely on one principal argument; that argument being that Ota does not teach the disputed limitation for displaying in a time mode a representation of a time interval together with representations of data items that have respective time information in the time interval as is recited in claim 1 (Br. 5-7). With respect to method claim 10, Appellants state exclusive reliance on the argument asserted for claim 1 (Br. 7).

Accordingly, we select claim 1 as representative. *See* 37 C.F.R. § 41.37(c)(1)(vii).

The record shows the Examiner indicates in the Final Action mailed Sep. 25, 2007, at p. 3, that Ota at Fig. 9, with elements 64B, 64E, and 64F teaches the disputed limitation. With respect to this finding, the Examiner further explains that:

Ota clearly teaches “to display the time mode a representation of a time interval together with representations of these data items that have respective time information in the time interval,” (see fig. 9(64B), in Ota). It is inherent for different captured image[s] to be displayed at a different time interval.

(Final Action, p. 8, ¶ 7). Appellants dispute the Examiner’s reliance on Ota’s Fig. 9 with the assertion that a single image capture time is not a representation of a time interval as recited in claim 1 (Br. 5). More specifically, Appellants argue: “There is no time interval associated with a

single picture and there is surely no ‘representation (90) of a time interval’ shown or suggested by the reference numeral 64B of Fig. 9, or its accompanying description in the specification Ota” (*id.*).

From our study of the reference, we find Ota Fig. 9 shows a processing flow diagram for “displaying a designated image and the construction of screens on [a] monitor” (col. 2, ll. 46-48). Further, we find element 64B is “the capture time . . . of [an] image,” which is the only time shown on Ota Fig. 9 (col. 5, ll. 47-52). Accordingly, we agree with Appellants’ contention that Ota’s Fig. 9 show a single image capture time.

Continuing, Appellants contend “[t]he only other discussion of time display in Ota occurs with respect to Fig. 10” (Br. 6). In conjunction with this contention, Appellants reproduce an Ota written disclosure concerning Fig. 10 and an included shown digital map screen (*id.*). The reproduced disclosure states that clicking a “‘DISPLAY CAPTURING TIME’ button” causes capturing times to be “displayed at each capturing place on the digital map’ (See Ota col. 6, ll. 17-20)” (underlining omitted) (Br. 6). Appellants explain that “[t]his allows the user to see the time stamp on all of the images currently being displayed on the [Ota] map” (*id.*). According to Appellants such disclosures, however, are deficient because “[t]here is no specified time interval, only the random times associated with the images being displayed on the digital map” (*id.*).

The Examiner responds to Appellants’ arguments (*see* Ans. 10-12), and also finds that Ota teaches “display[ing] a time interval together with representations of data items” because Ota “Fig. 7 shows data items (Album list) with a time interval (For example, “China Town . . . August 1995”, “Nagoya . . . January 1995)” (Ans. 10). Ota Fig. 7 is reproduced below.

FIG. 7

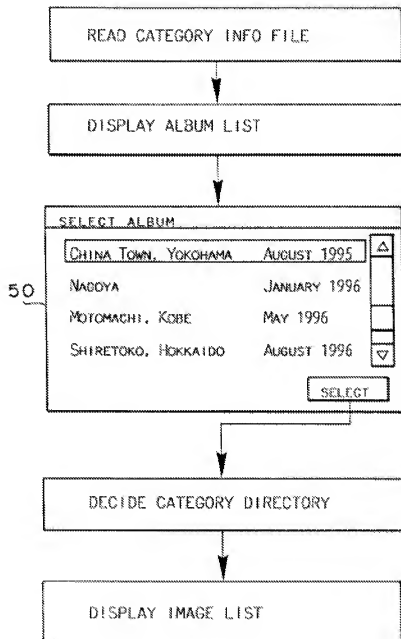


Figure 7 Shows Both a Processing Flow Chart for Constructing a Screen on a Monitor and a Displayed List Screen 50 (*see* Ota, col. 2, ll. 11-14, 39-41)

No Reply Brief has been filed, and, therefore, the record does not include evidence or arguments submitted by Appellants to address the Examiner's indicated findings from Ota Fig. 7.

Turning to Ota, we find the reference discloses that Fig. 7, element 50, is a list screen "show[ing] a list of titles and registration dates of . . . albums, which are registered in the memory (hard disk)" (col. 5, ll. 12-14). We further find that Ota discloses that albums are directories containing image data (col. 4, ll. 41-43). Accordingly, we agree with the Examiner's finding that the Ota shown list screen 50 in Fig. 7 teaches a representation of a time interval, i.e., the vertical chronological listing of four dates between August, 1995 and August, 1996. Additionally, based on what is shown in Fig. 7, we agree with the Examiner that Ota teaches displaying representations of data items, i.e., titled albums that are image data directories, and these data items are displayed at locations on list screen 50 that correspond to respective time information.

For similar reasons, we agree with the Examiner's findings, based on Ota Figure 10, that "Ota discloses 'display capturing time' that allows user to see the time stamp on all of the images being displayed on the map" and that "[t]ime length or difference between any of those two time stamps is [a] 'time interval'" (Ans. 11). We note that lines 72A in Fig. 10 are drawn between the markers 70A in capturing order to show the capturing route. Ota, col. 6, ll. 15-16.



In view of the above discussion, we find the Examiner did not err in rejecting representative claim 1 as being anticipated by Ota. Accordingly, the Examiner's rejection of claims 1 and 10 will be sustained.

*Claims 2, 3, 5-9, and 11-14*

Appellants collectively argue these claims rejected under § 103(a) as being unpatentable over Ota and Ogaki (Br. 8). All of these claims depend from either of base independent claims 1 and claim 10. With this circumstance, Appellants rely on the prior arguments directed to claim 1, and a bald assertion that "Ogaki does not cure the . . . deficiencies of Ota with respect to claims 1 and 10" (*id.*). For the reasons discussed *supra*, we also will sustain the rejection of these claims.

*Claim 4*

This claim depends from claim 1, and it is rejected under § 103(a) as being unpatentable over Ota, Ogaki, and Rusch. Appellants again rely on the prior arguments directed to claim 1, and a bald assertion that "Rusch does not cure the . . . deficiencies of Ota and Ogaki with respect to claim 1" (Br. 8). For the reasons discussed *supra*, we also will sustain the rejection of this claim.

ORDER

The Examiner's decision rejecting claims 1-14 is affirmed.

Appeal 2009-003722  
Application 10/528,950

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P. O. BOX 3001  
BRIARCLIFF MANOR, NY 10510